

1 **WO**

2
3
4
5
6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
8

9 Mark William Kelly,
10 Plaintiff,

11 v.

12 Pima County Sheriff's Department, et al.,
13 Defendants.
14

No. CV-24-00001-TUC-CKJ

ORDER

15 The Court assigns this case to the Detainee Track, LRCiv. 16.2(b)(2), because
16 Plaintiff's Complaint includes an allegation that he was "arrested, i.e., detained at a
17 facility," for allegedly violating a criminal law in connection with the allegations giving
18 rise to the claims against Defendants, 28 U.S.C. § 1915A(c). Because he is not currently in
19 custody, this proceeding is not exempt from initial disclosure requirements under Fed. R.
20 Civ. P. 26(a)(1)(B)(iv). The following Scheduling Order, entered pursuant to Fed.R.Civ.P.
21 16 and LRCiv. 16.2(b)(2)(B)(ii), shall govern the course of this action:

22 **IT IS ORDERED** that the parties abide by the following case management
23 schedule:

24 **A.** Joinder of additional parties or amendment of the pleadings shall be requested by
25 **June 13, 2025.**

26 **B.** Counsel for Defendants may choose to depose Plaintiff, at Defendants' expense, on
27 or before **July 14, 2025.**
28

1 C. Parties shall disclose a witness list on or before **August 13, 2025**. On or before that
2 date, the parties are directed to exchange their complete list of witnesses.

3 D. All discovery, including depositions of parties (other than the plaintiff), witnesses
4 and experts shall be completed by **September 15, 2025**. No discovery shall take place after
5 that date without leave of Court upon good cause shown.

6 E. Dispositive motions shall be filed on or before **October 13, 2025**.

7 1. Pursuant to LRCiv 7.2 and LRCiv 56.1, parties may file a motion, response, and
8 reply. No additional briefing on a motion is allowed unless leave of Court is granted.
9 Failure to file a response may be deemed a consent to a granting of the motion. A response
10 must be served and filed within fourteen days of service on the motion; the moving party
11 has seven days from service to serve and file a reply. LRCiv 7.2. Rule 56 motions for
12 summary judgment and Rule 12(b)(1) motions to dismiss for lack of subject matter
13 jurisdiction provide an exception to the above time limits: the time for a response is 30
14 days and the time for a reply is 15 days. LRCiv 56.1. Additional time may be permitted for
15 service. See Fed. R. Civ. P. 6(d). Unless otherwise permitted by the Court, a motion or
16 response, inclusive of supporting memorandum but exclusive of attachments and statement
17 of facts, shall not exceed 17 pages; a reply shall not exceed 11 pages. LRCiv 7.2.

18 2. Any pleading which is submitted with more than one exhibit must be
19 accompanied by a Table of Contents. The exhibits must be indexed with tabs that
20 correspond to the Table of Contents. Absent exigent circumstances, the Court will not
21 consider pleadings which do not conform to these requirements.

22 F. The parties are directed to submit separate Settlement Status Reports regarding the
23 status of any settlement discussions by close of discovery. The reports shall contain no
24 specific terms of settlement proposals. The reports shall be brief and shall not include any
25 settlement details (i.e., one—two sentences).

26 G. The Joint Proposed Pretrial Order shall be filed within thirty (30) days after
27 resolution of the dispositive motions filed after the end of discovery. If no such motions
28 are filed, a Joint Proposed Pretrial Order will be due **October 13, 2025**. The content of the

1 proposed pretrial order shall include, but not be limited to, that prescribed in the **Form of**
2 **Pretrial Order attached hereto.**

3 1. Pursuant to Federal Rule 37(c), the Court will not allow the parties to
4 offer any exhibits, witnesses or other information that were not previously disclosed in
5 accordance with the provisions of this Order and the Federal Rules of Civil Procedure or
6 not listed in the Proposed Pretrial Order, except for good cause.

7 2. A jury demand has been made.

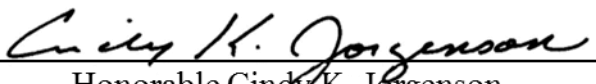
8 3. The pretrial conference will be set upon receipt of the Joint Pretrial
9 Order/Statement. The parties responsible for trial of the lawsuit shall appear and participate
10 in the pretrial conference. At the pretrial conference, the Court will set the deadlines for
11 filing and disposing of the following matters: proposed *voir dire*, jury instructions, trial
12 memorandum, deposition testimony to be used at trial, and motions *in limine*.

13 **H.** Motions for extensions of any of the deadlines set forth above shall be governed by
14 Fed. R. Civ. P. 16, LRCiv 7.1, and LRCiv 7.3. A motion for continuance shall be filed
15 prior to the expiration of the deadline. The schedule set forth in this Order may only be
16 modified with leave of Court and upon a showing of good cause. See Fed. R. Civ. P. 16(b);
17 *Johnson v. Mammoth Recreation, Inc.*, 975 F.2d 604 (9th Cir. 1992) (requiring a showing
18 of good cause under Rule 16 to amend complaint beyond scheduling order deadline).
19 Additionally, any motion for continuance of a discovery deadline, including a stipulation,
20 shall set forth specifically what discovery has been conducted to date, the discovery to be
21 completed, and the reasons why discovery has not been completed within
22 the deadline.

23 This Order contemplates that each party will conduct discovery in such a manner to
24 complete, within the deadline, any and all discovery. "Last minute or eleventh hour"
25 discovery which results in insufficient time to undertake additional discovery, and which
26 requires an extension of the discovery deadline will be met with disfavor, and could result
27 in denial of an extension, exclusion of evidence, or the imposition of other sanctions.
28

1 The parties should note that willful failure to comply with any of the terms of this
2 Order, the Federal Rules of Civil Procedure or other applicable rules may result in dismissal
3 of this action without further notice to Plaintiff, or sanctions upon Defendants. *Ferdik v.*
4 *Bonzelet*, 963 F.2d 1258 (9th Cir. 1992). Plaintiff is cautioned to comply with all applicable
5 rules of civil procedure; his pro se status will not excuse noncompliance. *King v. Atiyeh*,
6 814 F.2d 565 (9th Cir. 1987).

7 Dated this 29th day of April, 2025.

8
9 
10 Honorable Cindy K. Jorgenson
11 United States District Judge
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

_____,
Plaintiff,
vs. _____,
Defendant.

No. CIV _____ -TUC-CKJ
**PROPOSED SEPARATE/JOINT
PRETRIAL STATEMENT/ORDER**

Pursuant to the Scheduling Order entered _____, 20__, following
is the Proposed Final Pretrial Statement/Order to be considered at the pretrial conference.

A. COUNSEL FOR THE PARTIES

Plaintiff(s):

Defendant(s):

B. STATEMENT OF JURISDICTION

Cite the statute(s) that gives the Court jurisdiction, and whether jurisdiction is
disputed.

(E.g.: Jurisdiction in this case is based on diversity of citizenship under Title 28
U.S.C. § 1332. Jurisdiction is (not) disputed.)

C. NATURE OF ACTION

Provide a concise statement of the type of case, the cause of the action, and the
relief sought.

(E.g.: This is a products liability case wherein the plaintiff seeks damages for
personal injuries sustained when he fell from the driver's seat of a forklift. The

1 plaintiff contends that the forklift was defectively designed and manufactured by
 2 the defendant and that the defects were a producing cause of his injuries and
 3 damages.)

4 **D. CONTENTIONS OF THE PARTIES**

5 With respect to each count of the complaint, counterclaim or cross-claim, and to
 6 any defense, affirmative defense, or the rebuttal of a presumption where the burden
 7 of proof has shifted, the party having the burden of proof shall list the elements or
 8 standards that must be proved in order for the party to prevail on that claim or
 9 defense.

10 (E.g.: In order to prevail on this products liability case, the plaintiff must prove the
 11 following elements . . .)

12 (E.g.: In order to defeat this products liability claim based on the statute of repose,
 13 the defendant must prove the following elements . . .)

14 **E. STIPULATIONS AND UNCONTESTED FACTS**

15 **F. CONTESTED ISSUES OF FACT AND LAW**

16 **G. LISTS OF WITNESSES**

17 A jointly prepared list of witnesses, identifying each as either plaintiff's or
 18 defendant's and indicating whether a fact or expert witness, must accompany this
 19 proposed order.

20 A brief statement as to the testimony of each expert witness must be included.

21 **H. LIST OF EXHIBITS**

22 Each party must submit with this proposed order a list of numbered exhibits, with a
 23 description of each containing sufficient information to identify the exhibit, and
 24 indicating whether an objection to its admission is anticipated.

25 Exhibits should be marked according to instructions received from the court.

26 **I. MOTIONS IN LIMINE**

27 Motions in limine shall be filed and served upon each party with this proposed
 28 order. Any opposition shall be filed and served within fourteen (14) days.

J. LIST OF ANY PENDING MOTIONS

K. PROBABLE LENGTH OF TRIAL

L. FOR A BENCH TRIAL

Proposed findings of fact and conclusions of law shall be served and filed on each party with this proposed order.

M. FOR A JURY TRIAL

Stipulated jury instructions shall be filed thirty (30) days before trial. Instructions which are not agreed upon, and a concise argument in support of the instruction, shall be filed and served upon each party thirty (30) days before trial. Objections to the non-agreed upon instructions shall be filed and served upon each party within fourteen (14) days.

N. CERTIFICATION

The undersigned counsel for each of the parties in this action do hereby certify and acknowledge the following:

1. All discovery has been completed.
2. The identity of each witness has been disclosed to opposing counsel.
3. Each exhibit listed herein: (a) is in existence; (b) is numbered, and: (c) has been disclosed and shown to opposing counsel.

O. ADOPTION

The Court may adopt this proposed Joint Pretrial Order at the Pre-Trial Conference or subsequent hearing.

DATED this _____ day of _____, 20__.

APPROVED AS TO FORM AND CONTENT

Attorney for Plaintiff

Attorney for Defendant